

INDIANA BOARD OF TAX REVIEW
Small Claims
Final Determination
Findings and Conclusions

Petition No.: 42-018-15-1-5-01651-16
Petitioner: Stacy Allen
Respondent: Knox County Assessor
Parcel No.: 42-08-29-402-011.000-018
Assessment Year: 2015

The Indiana Board of Tax Review (“Board”) issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. Stacy Allen appealed the 2015 assessment of his house located at 11871 East Ragsdale Road in Bicknell. On June 27, 2016, the Knox County Property Tax Assessment Board of Appeals issued its determination, valuing the property as follows:

Land: \$3,100 Improvements: \$2,200 Total: \$5,300

2. Allen appealed that determination by filing a Form 131 petition with the Board, electing to move forward under our small claims procedures. On April 19, 2018, Kyle C. Fletcher, our designated administrative law judge (“ALJ”), held a hearing. Neither he nor the Board inspected the property.
3. Allen represented himself, and Catherine Lane represented herself in her capacity as Knox County Assessor. Both testified under oath. Amy Conner, deputy assessor, took the oath but did not testify.

Record

4. Allen offered the following exhibit:

Petitioner Exhibit 1: Comparative Market Analysis by Ronald Ackman

5. The Assessor offered the following exhibit:

Respondent Exhibit 1: 2015 property record card for subject the property

6. The record also includes the following: (1) all pleadings and documents filed in the current appeal, (2) all orders and notices issued by the Board or ALJ, and (3) a digital recording of the hearing.

Objection

7. The Assessor objected to the admission of Petitioner’s Exhibit 1—a Comparative Market Analysis prepared by Ronald Ackman—on grounds that Allen did not exchange the exhibit prior to the hearing. Allen responded that he gave the Assessor a copy of the exhibit at a meeting that occurred years before the hearing. The ALJ took the objection under advisement.
8. Under our small claims procedures, a party may request an opposing party to provide copies of its documentary evidence at least five business days before a hearing. 52 IAC 3-1-5(d). The request must be made at least 10 business days in advance of the hearing. Absent such a request, no exchange is required. *Id.* The Assessor did not claim that she asked Allen for copies of his documentary evidence in advance of the hearing. Thus, we overrule the Assessor’s objection and admit Petitioner’s Exhibit 1.

Contentions

9. Summary of the Assessor’s case:
 - a. The Assessor argued that Allen’s assessment increased due to a “glitch in the system.” In the past, the subject property had been valued comparably to other properties in the area, but an error in 2012 led to a drop in the land component of its assessment. The Assessor fixed the error in 2015 and returned the assessment to its 2011 level. *Lane testimony; Resp’t Ex. 1.*
 - b. According to the Assessor, the subject property’s land assessment for 2015 was “the same as everyone else’s land value.” The parties had agreed to this value in past years, and the Assessor believes it was the correct value for 2015. *Lane testimony.*
10. Summary of Allen’s case:
 - a. Allen bought the subject property together with three additional lots for \$1,500 in April 2011. When he saw what the property taxes were, he had Ronald Ackman, a real estate broker, prepare a comparative market analysis. For his analysis, Ackerman examined sales of homes that he believed were similar to the subject home. The properties sold between March 2010 and January 2011 for prices ranging from \$1,000 to \$8,000. Ackman noted how each home compared to the subject property in terms of various characteristics, including location, size, age, and condition. He then rated each sale as superior or equal to the subject property. Based on those ratings, he valued the property at \$3,000 as of July 20, 2011. *Allen testimony; Pet’r Ex. 1; Resp’t Ex. 1.*

- b. Allen does not believe the assessment changed because of a “glitch.” He testified that he showed Ackman’s analysis to the Assessor in 2012 and she agreed to lower the land value to \$1,100 as a compromise. *Allen testimony.*
- c. The subject property is in poor shape, and Allen believes it is over-assessed. The ceilings and floors are falling down and the house has a raccoon infestation. According to Allen, all of those problems decrease the property’s value. *Allen testimony.*

Burden of Proof

- 11. Generally, a taxpayer seeking review of an assessment must prove the assessment is wrong and what the correct value should be. Indiana Code § 6-1.1-15-17.2 creates an exception to the general rule and assigns the burden of proof to the assessor where (1) the assessment under appeal represents an increase of more than 5% over the prior year’s assessment for the same property, or (2) the taxpayer successfully appealed the prior year’s assessment, and the current assessment represents an increase over what was determined in the appeal, regardless of the level of that increase. *See* I.C. § 6-1.1-15-17.2(a), (b) and (d). If an assessor has the burden and fails to prove the assessment is correct, it reverts to the previous year’s level (as last corrected by an assessing official, stipulated to, or determined by a reviewing authority) or to another amount shown by probative evidence. *See* I.C. § 6-1.1-15-17.2(b).
- 12. Allen’s assessment increased by more than 5%, climbing from \$4,200 in 2014 up to \$5,300 in 2015. The Assessor therefore conceded that she had the burden of proof. *Lane testimony; Allen testimony.*

Analysis

- 13. Indiana assesses real property based on its true tax value. The Department of Local Government Finance (“DLGF”) defines “true tax value” as “market value-in-use,” which it in turn defines as “[t]he market value-in-use of a property for its current use, as reflected by the utility received by the owner or by a similar user, from the property.” I.C. § 6-1.1-31-6(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 Ind. Admin. Code 2.4-1-2). Parties may offer evidence that is consistent with the DLGF’s definition of true tax value. A market-value-in-use appraisal prepared according to the Uniform Standards of Professional Appraisal Practice often will be probative. *See Eckerling v. Wayne Twp. Ass’r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006). Parties may also offer actual construction costs, sales information for the property under appeal, sales or assessment information for comparable properties, and any other information compiled according to generally acceptable appraisal principles. *Id.*; *see also* I.C. § 6-1.1-15-18 (allowing parties to offer evidence of comparable properties’ assessments in property-tax appeals). Regardless of the valuation method used, a party must explain how its evidence relates to the property’s market value-in-use as of the relevant valuation date. *See Long v. Wayne Twp. Ass’r*, 821 N.E.2d 466, 471 (Ind. Tax

Ct. 2005). Otherwise, the evidence lacks probative value. *Id.* The valuation date for 2015 assessments was March 1, 2015.

14. The Assessor failed to offer any probative evidence to show that the subject property's \$5,300 assessment accurately reflected its market value-in-use. At most, she broadly testified that other land was assessed the same as the subject land. While a party may offer evidence of how comparable properties are assessed, "[t]he determination of whether properties are comparable shall be made using generally accepted appraisal and assessment practices." I.C. § 6-1.1-15-18(c). That requires far more information than the Assessor offered here. *See Long*, 821 N.E.2d at 471 (holding that taxpayers seeking to show their property's value through sales data for other properties had to explain how the characteristics for their property compared to the other properties and how relevant differences affected value).
15. Because the Assessor failed to make a prima facie case supporting the 2015 assessment, Allen is entitled to have that assessment revert to the previous year's level of \$4,200. To the extent Allen sought a lower value, it was his burden to prove it.
16. Allen did not offer sufficient evidence to show that the property was worth less than \$4,200. His testimony about the home's condition was relevant. But it was insufficient, by itself, to show a specific value or even a range of values. While Ackman considered the property's condition in preparing his comparative market analysis, he prepared that analysis more than three years before the relevant valuation date. And Allen did not show how it related to that valuation date. Ackman's analysis therefore lacks probative value. The same is true for the sale price from Allen's April 2011 purchase of the property.

FINAL DETERMINATION

In accordance with the above findings of fact and conclusions of law, we order that Allen's 2015 assessment be changed to its 2014 value of \$4,200.

ISSUED: July 10, 2018

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

- APPEAL RIGHTS -

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.